

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

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|------------------------------|---|-----------------------------------|
| D.S., |) | |
| |) | |
| Plaintiff, |) | Civil Action No. 3:18-140 |
| |) | Judge Kim R. Gibson |
| v. |) | Magistrate Judge Maureen P. Kelly |
| |) | |
| HOLLIDAYSBURG/BLAIR COUNTY, |) | Re: ECF No. 21 |
| BLAIR COUNTY PRISON, BLAIR |) | |
| COUNTY PRISON BOARD, MICHAEL |) | |
| JOHNSTON, and JOHN DOES 1-4, |) | |
| |) | |
| Defendants. |) | |

ORDER OF COURT

AND NOW, this 14th day of December, 2018, after Plaintiff D.S. ("Plaintiff") filed an action in the above-captioned case, and after a Motion to Dismiss Plaintiff's Complaint in Part filed was filed by Defendants, ECF No. 21, and after a Report and Recommendation was filed thereupon by the United States Magistrate Judge, ECF No. 33, and Objections having been filed thereto by Plaintiff, ECF No. 35, and upon independent review of the record and upon consideration of the Magistrate Judge's Report and Recommendation, which is adopted as the opinion of this Court,

IT IS HEREBY ORDERED that the Motion to Dismiss, ECF No. 21, is GRANTED as to: (1) Eighth Amendment claims; (2) Defendant Blair County Prison; (3) Defendant Michael Johnston in his official capacity; (4) all claims for punitive damages; (5) Count III as to Defendants John Does 1-4; and (6) Defendant Hollidaysburg. IT IS FURTHER ORDERED that the Motion to Dismiss, ECF No. 21, is DENIED as to: (1) Defendant Blair County Prison Board;

and (2) Count III as to Defendant Michael Johnston in his individual capacity. IT IS FURTHER ORDERED that Hollidaysburg is stricken from the caption.

This case will proceed as to compensatory damages on the following claims: Count I: violation of the Fourteenth Amendment (against Blair County and Blair County Prison Board); Count II: violation of the Fourteenth Amendment (against John Does 1-4); and Count III: violation of the Fourteenth Amendment (state-created danger) (against Michael Johnston in his individual capacity).

BY THE COURT:

A handwritten signature in black ink, appearing to read "Kim R. Gibson", written over a horizontal line.

Kim R. Gibson
UNITED STATES DISTRICT JUDGE

cc: The Honorable Maureen P. Kelly
United States Magistrate Judge

All counsel of record via CM/ECF